IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT PETITION NO : 10540 of 1993

Between:

Palaka Mallaiah @ Bonamali, S/o. Mandiyya.
R/o. Kondula Veeraghattam Village, Srikakulam.

..... PETITIONER

AND

1 The Government of A.P. Rep. By its Secretary
Social Welfare (F2) Department, Secretariat,
Hyderabad.
2 The Agent to the Governor,
Srikakulam.
3 The Deputy Collector (Tribal Welfare)
Elwinpet, Vizianagaram District.
4 The Sepcial Deputy Tahsildar (Tribal Welfare)
Elwinpet, Vizianagaram District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Certiorari calling for the records relating to order of the government, 1st respondent in MEmo.No.203/F2/87-2, Social Welfare (F) Dept., dated 14/06/1993 and quash the same as arbitrary, illegal and void.

Counsel for the Petitioner: MR.M.P.CHANDRAMOULI

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following :

HONOURABLE SRI JUSTICE GHULAM MOHAMMED

WRIT PETITION NO.10540 OF 1993

ORDER:

This writ petition is filed seeking a writ of certiorari calling for the records pertaining to order of the 1st respondent-Government in Memo No.203/F2/87-2, Social Welfare (F) Department, dated 14.6.1993 and quash the same as the same is arbitrary and illegal.

The facts, which are necessary for appreciating the intricacies of the case, are that the petitioner belong to Pydi caste, which is a Hill Tribe and he possess certain extents of land in the tribal area. While so, the fourth respondent herein filed O.P.No.49 of 1981 against the petitioner before the 3rd respondent alleging that the petitioner belongs to a non-tribal community and that he is in possession of lands situated in tribal area and as such he is liable for eviction under the provisions of Andhra Pradesh (Scheduled Area) Land Transfer Regulation-I of 1959. The 3rd respondent herein ordered for eviction of the petitioner by its order, dated 5.2.1986. The petitioner preferred an appeal before 2nd respondent herein and the second respondent rejected the same. Aggrieved by the same he filed revision before the 1st respondent-Government. The 1st respondent, vide impugned order rejected the

revision. Hence, this writ.

The learned counsel for the petitioner contended that the 1st respondent issued a memo dated 3.3.1993 wherein the revision petitioner was asked to produce additional material, if any, in support of his claim of scheduled lands within 15 days from the date of its issue. It is further contended that the petitioner has not adduced any material since all the material and evidence had already been adduced before the lower authorities. It is further stated by the learned counsel that the 1st respondent, without issuing any notice for hearing in the revision, passed now impugned final order and therefore the same is in contravention of principles of natural justice and is liable to be quashed.

The learned Government Pleader for Social Welfare fairly conceded the said fact.

Heard both sides and perused the record. The relevant portion of the impugned order reads as follows:

> " However, as per the requirement of the provision in the L.T.R., the Counsel for the revision petitioner was addressed in the memo, second cited to advise his client to adduce additional material/documents if any in support of his claim over the scheduled lands in question within 15 days to dispose of the Revision Petition finally. The time granted was over by 19.3.1993. But so far no reply has been received by the Government and, thus, the revision petitioner has failed to substantiate his claim over the scheduled lands in question.
>
> The Government therefore, reject the Revision Petition submitted by Sri Palaka Mallaiah@ Bonamali (petitioner herein)."

A perusal of the impugned order makes it clear that no opportunity of hearing was afforded to the petitioner before passing the impugned order. In that view of the matter, I deem it appropriate to quash the order impugned and the matter is remitted to the revisional authority-1st respondent herein with a direction to dispose of the revision pending before him, after fixing date of hearing and affording an opportunity of hearing to the petitioner, within a period of two months from the date of receipt of a copy of this order.

Writ petition is disposed of with the above observation. No costs.

26.8.2004.

mdaa.

Copy to:

1. The Secretary to the Government of A.P.

Social Welfare (F2) Department, Secretariat,
Hyderabad.

2 The Agent to the Governor,
Srikakulam.

3 The Deputy Collector (Tribal Welfare)
Elwinpet, Vizianagaram District.

4 The Sepcial Deputy Tahsildar (Tribal Welfare)
Elwinpet, Vizianagaram District.

5. Two C.Cs.for G.P. for Social Welfare, High Court of A.P., Hyderabad (OUT).

6. Two C.D.copies.